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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/715,069      | 11/20/2000  | Hermann Kuenzner     | 951/49289           | 8872             |

7590 04/01/2004

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| EXAMINER |
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VU, KIEU D

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| ART UNIT | PAPER NUMBER |
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2173

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/715,069

Applicant(s)

KUENZNER, HERMANN

Examiner

Kieu D Vu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 U.S.C. § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghitea, Jr. et al ("Ghitea, Jr.", U.S.P 5693876) and Driscoll et al ("Driscoll", U.S.P 4,180,860).

Regarding claims 1 and 5, Ghitea, Jr. teaches a process and an indicator for visually display of fuel consumption in motor vehicles (see figures 5 and 7) with an electronically controllable display (72), where the display is controlled in such a manner that at least two sets of information (see figure 5, see lines 150 and 152 of figure 7), having an interrelated effect are displayed as a comparison by graphical representation (col 9, lines 49-62). Ghitea, Jr. differs from the claims in that Ghitea, Jr. does not teach that the two sets of information are displayed at the same place alternating with the same type of graphic. However, such feature is well known in the art. For example, Driscoll teaches a display device where in two signals may be alternately displayed at the same place alternating with the same type of graphic (bar) (see col. 3, lines 10-32) with the advantage being to make available more information at a single convenient location. It would have been obvious to one of ordinary skill in the art, having the

teaching of Ghitea, Jr. and Driscoll before him at the time the invention was made, to modify Ghitea, Jr.'s fuel consumption to include displaying two signals alternately at the same place with the same type of graphic (bar) taught by Driscoll with the motivation being to make available more information at a single convenient location (Driscoll, col. 3, lines 10-13).

Regarding claims 2 and 6, Ghitea, Jr. teaches the use of bar graph (Fig. 5) to display information.

Regarding claims 3-4 and 7-8, Ghitea, Jr. teaches the use of different colors (color coding) to display different information. See col. 11, lines 54-59.

3. Applicant's arguments filed 01/26/04 have been fully considered but they are not persuasive.

In response to Applicant's argument "The Ghitea Patent displays multiple information in numerical representation, not graphical representation", Applicant's attention is directed to vertical bars 159 (Fig. 7) which depict the fuel economy (col. 9, lines 60-62).

In response to Applicant's argument that "there is no suggestion or motivation for combining the teachings of Ghitea Patent and the Driscoll Patent, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*,

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837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, since both Ghitea and Driscoll patents are in the same field of presenting information on a display unit, It would have been obvious to one of ordinary skill in the art, having the teaching of Ghitea, Jr. and Driscoll before him at the time the invention was made, to modify Ghitea, Jr. 's fuel consumption to include displaying two signals alternately at the same place with the same type of graphic (bar) taught by Driscoll with the motivation being to make available more information at a single convenient location (Driscoll, col. 3, lines 10-13).

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu whose telephone number is (703-605-1232). The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703- 308-3116).

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-872-9306

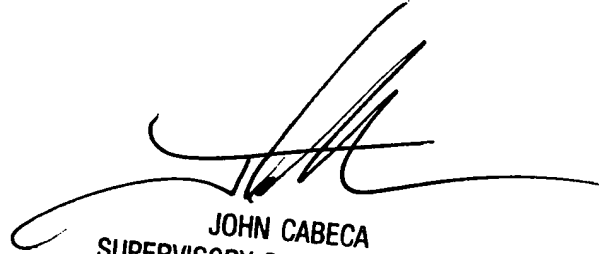
and / or:

(703)-746-5639 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu

03/25/04



JOHN CABECA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER